

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Nancy A. Nessa,

Debtor(s).

Case No.: 09-60081
Chapter 7

**NOTICE OF AMENDED MOTION AND AMENDED MOTION OBJECTING TO
EXEMPT PROPERTY**

TO: The debtor(s) and other entities specified in Local Rule 9013-3

1. Gene W. Doeling the Trustee of the bankruptcy estate of the above-named debtor, moves the court for the relief requested below and gives notice of hearing.
2. The court will hold a hearing on this motion at 9:00 a.m. on May 27, 2009 at the United States Courthouse, at 118 South Mill Street, in Fergus Falls, Minnesota.
3. Any response to this motion must be filed and served by delivery not later than May 22, 2009, which is three days before the time set for the hearing (excluding Saturdays, Sundays, and holidays), or filed and served by mail not later than May 18, 2009, which is seven days before the time set for the hearing (excluding Saturdays, Sundays and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**
4. This court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Fed. R. Bank. P. 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this chapter 7 case was filed on January 28, 2009. The case is now pending in this court.
5. This motion arises under 11 U.S.C. § 522 and Fed. R. Bankr. P. 4003. This motion is filed under Fed. R. Bankr. P. 9014 and Local Rules 9013-1. Movant requests relief with respect to debtor's claim of exemption.
6. Debtor exempted an IRA, described as a "Wells Fargo Rollover IRA xxxxx9505" in the amount of \$63,168 under 11 U.S.C. § 522(d)(12). Debtor revealed at the 341 meeting that this is an IRA which was inherited from her father. Trustee objects that inherited IRAs are not exemptible under § 522(d)(12) in that this is an inherited IRA, and it was not the debtor's money that was deposited into the IRA and it does not fit within the exemption definition set out in that statute. The original motion referred to the inherited IRA as being exempted under the Minnesota Statute when it should have referred to it being exempted under the federal exemption statute.

Wherefore, the bankruptcy trustee moves the court for an order that debtor's claim of an exemption in the Wells Fargo Rollover IRA xxxxx9505 be disallowed and for such other relief as may be just and equitable.

Dated: May 6, 2009

Signed: /e/ Gene W. Doeling
Gene W. Doeling, Bankruptcy Trustee
PO Box 423
Fargo, ND 58107-0423
701-232-8757

Verification. I, Gene W. Doeling, the moving party named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated: May 6, 2009

Signed: /e/ Gene W. Doeling

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ORDER

At Fergus Falls, Minnesota, May 27, 2009.

Upon the Amended Objection to Claimed Exempt Property filed by the Trustee and upon all the files and records of the proceedings herein,

IT IS ORDERED

1. Debtor's exemption in the Wells Fargo inherited IRA under 11 U.S.C. § 522(d)(12) is disallowed.

Dated: _____

Dennis D. O'Brien
U.S. Bankruptcy Court Judge

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UNSWORN CERTIFICATE OF SERVICE

I, Gene W. Doeling, declare under penalty of perjury that on May 6, 2009 the following entities were served electronically via CM/ECF

Jean P. Hannig, jean@hanniglaw.net

Office of the United States Trustee, ustpreion12.mn.ecf@usdoj.gov

Executed on : May 6, 2009

Signed: /e/ Gene W. Doeling
Gene W. Doeling
121 Roberts Street
Fargo, ND 58102